

**SALES AND USE TAX REVIEW COMMISSION  
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER:**

S-1436

**DATE OF INTRODUCTION:**

March 29, 2004

**SPONSOR:**

Senator Sweeney

**DATE OF RECOMMENDATION:**

June 10, 2004

**IDENTICAL BILL:**

A-2780

**COMMITTEE:**

Senate Economic Growth Committee

**DESCRIPTION:**

This bill authorizes the creation of a new Urban Enterprise Zone in Salem City, Salem County.

**ANALYSIS:**

This bill is proposed to amend the Urban Enterprise Zones Act, N.J.S.A. 52:27H-60, et. seq., to allow the creation of a new Urban Enterprise Zone in Salem City.

The Urban Enterprise Zone Program has expanded in ways that the original drafters never intended. For instance, prior to 1994, ten towns in eleven municipalities were designated as Urban Enterprise Zones; however, in 1994, legislation authorized the creation of ten additional zones and in 1995, legislation added seven more zones. Recent legislation added three more zones to that list. Recently, Urban Enterprise Zone-impacted business districts, areas that have been "negatively impacted" by the presence of two or more adjacent Urban Enterprise Zones, have been created wherein reduced sales tax is collected. If there was a consensus that the Urban Enterprise Zone Program is operating as intended and is thought to be effective and efficient then the amendments set forth in this bill may represent sound policy. However, there has never been an independent, comprehensive analysis performed that confirms that the Urban Enterprise Zone Program has actually been a benefit to the participating communities, yet the Program is being constantly amended and expanded.

As the number of zones increase, the challenge of enforcement expands. Due to the high number of zones in existence, New Jersey no longer enjoys the administrative simplicity it once did with sales tax uniformity across the State. The Statement attached to this proposed legislation does not explain why the municipality in question would benefit from Urban Enterprise Zone designation. In addition, the bill does not provide an economic study to justify the creation of an Urban Enterprise Zone in Salem City. It does not provide any information that would demonstrate that such designation would reverse the economic decline of the affected municipality or attract businesses or customers to that municipality. Conversely, it does not demonstrate that if enacted, it would not draw

businesses or customers from other depressed municipalities, or if it would do so, then such an effect is economically justified.

Adding more zones may create a slippery slope because other municipalities which are similarly situated to Salem City may petition to become another enterprise zone. This domino effect defeats the original purpose of the Urban Enterprise Zones Act of helping to revitalize the State's economically distressed urban areas. Given the ease with which the Urban Enterprise Zone Program is being expanded, it is conceivable that all municipalities in New Jersey will be able to credibly and successfully press for Urban Enterprise Zone status. As originally conceived, the Program was to be limited and its benefits restricted to the most dire cases. This bill does not establish that its provisions would further that purpose.

In addition, Salem City vendors already receive one of the benefits offered by the Urban Enterprise Zone Program since vendors located in Salem County have been eligible to collect a reduced rate of tax on certain retail sales of tangible personal property since July 1, 1994. N.J.S.A. 54:32B-8.45. The same items of tangible personal property that are subject to the Urban Enterprise Zones Act's reduced rate of tax collection are included in Salem County's reduced rate of collection. Thus, in this respect, the adoption of this bill is redundant.

Therefore, if this bill were to take effect, the only sales and use tax benefit provided to Salem City vendors will be the sales tax exemption. The Urban Enterprise Zones Act permits a qualified business the ability to purchase tax-free most items of tangible personal property and services for the exclusive use or consumption on the premises of the qualified business at its zone location. Only personal property controlled by the qualified business qualifies for the exemption. Items such as office and business equipment and supplies, furnishings, trade fixtures, and repair or construction materials are examples of items that fall within the exemption.

However, since the inception of the Urban Enterprise Zones Act, competitors located outside of the zones have complained of and have perceived unfair tax advantages for vendors located within the zones. There have been many complaints of fraud submitted to the Urban Enterprise Zone Authority and to the Division of Taxation by vendors located outside of the zones charging that Urban Enterprise Zone vendors purchase items tax-free and then transport the property to other locations for use outside of the zone. Permitting more vendors the entitlement of a tax exemption would exacerbate the already tenuous foundation upon which the Act is based.

A major reason many municipalities are now petitioning for an Urban Enterprise Zone may be the belief that such a designation would replace revenue that the municipality is currently losing from other sources. For instance, many municipal

representatives have testified to the Sales and Use Tax Review Commission that Urban Enterprise Zone designation would benefit the municipality since they are currently experiencing financial problems. The main theme in urging the Commission to approve a bill creating yet another zone, stresses that Urban Enterprise Zone status would provide funds for municipal use.

Finally, expanding the Urban Enterprise Zone Program would further alter the broad-based nature of the sales and use tax. A broad-based tax, imposed with limited exemptions on a wide range of transactions, is easy to understand and administer, and is generally perceived as economically neutral and “fair.” When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. Expanding the Urban Enterprise Zone Program by adding another 3% zone would save an individual taxpayer and vendor a fairly insignificant sum every year. However, the cumulative loss of revenue to the State is substantial, leaving the State to find other means of generating the money lost as a result of expanding the Program. This loss of revenue would be considerable because the 3% sales tax collected by qualified vendors is remitted to the municipality in which the Urban Enterprise Zone is located and not to the State’s General Fund. Thus, even though sales of certain items of tangible personal property are currently subject to a 3% rate of tax in Salem City, the entire 3% collected is remitted to the State’s General Fund. If this bill were to go into effect, the State would lose the entire amount of tax that is currently collected on sales of items in the new Urban Enterprise Zone. This would be a particularly burdensome loss to the State in regard to big-ticket items.

The Committee recommends that a review of the Urban Enterprise Zone program and its effectiveness is necessary to determine the best course of action in relation to future modifications or expansions of the Urban Enterprise Zone program in New Jersey. To date, there has not been a comprehensive review of the Urban Enterprise Zone program by an independent body. As a result, substantive data concerning the actual success of the Urban Enterprise Zone program has not been provided to the Legislature.

**RECOMMENDATION:**

The Commission does not recommend enactment of this Bill.

**COMMISSION MEMBERS FOR PROPOSAL: 0**

**COMMISSION MEMBERS AGAINST PROPOSAL: 5**

**COMMISSION MEMBERS ABSTAINING: 0**

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